

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NORTH DAKOTA

In re:	)	Case No. 23-30352
	)	(Chapter 11 – Subchapter V)
DRAIN SERVICES INC.,	)	
	)	
Debtor.	)	
_____	)	

**ORDER GRANTING DEBTOR’S MOTION FOR LEAVE  
TO USE CASH COLLATERAL**

Debtor Drain Services Inc. filed a Motion for Leave to Use Cash Collateral. Doc. 8. Choice Financial Group filed an objection. Doc. 23. The United States of America, on behalf of the Small Business Administration and the Internal Revenue Service, filed conditional objections. Docs. 44, 45. The Court held preliminary hearings on the motion on October 6, 2023, and October 17, 2023, and granted interim relief on the motion. The Court held a final hearing on the motion on October 31, 2023.

Based on the motion, exhibits and other evidence received during the hearings, the Court finds that use of cash collateral is necessary to avoid harm to the estate. The Court also finds that the relief provided in this Order is necessary to maintain Debtor’s operations during the authorization period. Accordingly, for the reasons stated on the record,

**IT IS ORDERED:**

1. The Motion is GRANTED.
2. Consistent with the weekly budget proposed at the second interim hearing, Debtor is authorized to use not more than \$113,000 in cash collateral between October 17, 2023, and December 31, 2023.

3. As adequate protection for Debtor's use of cash collateral, the Court finds that equity in Debtor's property serves as adequate protection for the use of cash collateral. Additionally, Debtor agreed to grant Choice Financial Group, the United States Small Business Administration and the Internal Revenue Service replacement liens on cash generated by Debtor and chattel property purchased by Debtor with cash collateral during the course of its Chapter 11 case up to the full sum of the cash collateral Debtor uses. Accordingly, to the extent Debtor uses prepetition cash collateral in which Choice Financial Group, the United States Small Business Administration and/or the Internal Revenue Service hold a security interest, Debtor is authorized to grant these creditors replacement liens, pursuant to 11 U.S.C. § 552, in Debtor's postpetition cash and chattel property purchased with cash of the same priority, dignity, and effect as the prepetition liens on the prepetition property; provided such replacement liens will not attach to avoidance actions or other actions under Chapter 5 of the Bankruptcy Code or any proceeds or recoveries from them. The liens and security interests granted shall be effective and perfected without further act by any party.

4. In addition to, and not in lieu of, the adequate protection provided for in the paragraph above, Debtor agreed to pay to Choice Financial Group (i) the sum of \$25,000.00, by the close of business on Friday, October 20, 2023; and (ii) the sum of \$10,000.00 on or before the 15<sup>th</sup> day of each successive calendar month until a plan of reorganization is confirmed; these payments will not count against the cash collateral limit noted above.

5. Every Friday, Debtor's counsel must send to counsel for (i) Choice Financial Group; (ii) the United States of America; (iii) the United States Trustee; and (iv) the

Subchapter V Trustee, a digital copy of Debtor's bank activity for the subject week. Upon the request of any such counsel, Debtor must also provide any backup documentation it has for any given transaction. Should the Debtor lack backup documentation for any transaction of a material nature, counsel for any of the parties listed above may ask Debtor to file a motion under Federal Rule of Bankruptcy Procedure 2004 to procure such documentation, and Debtor must file the motion, issue any resulting subpoena permitted by court order, and make good faith efforts to obtain the backup documentation.

Dated: October 31, 2023.

A handwritten signature in black ink, appearing to read "Shon Hastings". The signature is fluid and cursive, with the first name "Shon" and last name "Hastings" clearly distinguishable.

SHON HASTINGS, JUDGE  
UNITED STATES BANKRUPTCY COURT